

Passed on 12-08-2021

THE KERALA FINANCE BILL, 2021
(As Passed by the Assembly)

A

BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2021-2022.

Preamble.—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2021-2022.

BE it enacted in the Seventy-second Year of Republic of India as follows;—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Finance Act, 2021.

(2) Save as otherwise provided in this Act,-

(a) Sub-sections (3) and (4) of section 8 shall be deemed to have come in to force on the 1st day of August, 2021.

(b) sub- section (5) of section 8 shall be deemed to have come into force on the 1st day of June, 2021, remaining provisions of section 8 shall come into force on such date as the Government may, by notification in the official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this section and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(c) the remaining sections of this Act, shall be deemed to have come into force on the 10th day of June, 2021.

2. *Amendment of Act 11 of 1957.*—In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), in section 3A,—

(1) in sub-section (1),—

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(2) in sub-section (4), for the words “an assessee”, the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “30th November, 2021” shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as surcharge before reckoning the arrears to be settled under sub-section (6).”

Explanation:—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against an assessee.”

3. *Amendment of Act 10 of 1960.*—In the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960), in section 76, to sub-section (1) the following proviso shall be inserted, namely:—

“ Provided that in the case of appeals under the Kerala State Goods and Services Tax Act, 2017 (20 of 2017) the maximum limit of additional court fee leviable shall not exceed rupees twenty thousand”.

4. *Amendment of Act 15 of 1963.*—In the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(1) in section 7, in the proviso, after the figures and symbol “2014-15”, the word, figures and symbol “and 2015-16” shall be inserted;

(2) in sub-section (1) of section 7A,—

(i) in clause (i), after the figures and symbol “2014-15”, the word, figures and symbol “and 2015-16” shall be inserted;

(ii) in clause (iii),—

(a) for the words and figures “ 31st March, 2020” occurring at both the places, the words and figures “ 31st December, 2020” shall be substituted;

(b) in sub-clause (a), for the words and figures “30th November, 2020”, the words and figures “30th September, 2021”, shall be substituted;

(c) in sub-clause (d), for the words and figures “ 31st March, 2021”, the words and figures “ 31st October, 2021”, shall be substituted.

(3) in section 23B,—

(i) in sub-section (1),—

(a) in clause (i),—

(i) in sub-clause (a), for the words “fifty per cent”, the words “seventy per cent”, shall be substituted;

(ii) in sub-clause (b), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(b) in clause (ii), for the words and figures “31st March, 2020”, the words and figures “31st March, 2021”, shall be substituted;

(ii) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(iii) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “30th November, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(iv) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(v) after sub-section (11), the following sub-section shall be inserted, namely:—

“(11A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

Explanation:—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”

5. *Amendment of Act 7 of 1975.*—In the Kerala Building Tax Act, 1975 (7 of 1975), in section 5, after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) in the case of green building as defined in clause (xviii) of section 2 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and clause (18a) of section 2 of the Kerala Municipality Act, 1994 (20 of 1994) the building tax shall be levied at the rate of fifty per cent of the rate of building tax as specified in Schedule 1”.

6. *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), in section 37C,—

(1) in sub-section (1), —

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent”, shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent”, shall be substituted;

(2) in sub-section (4), for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5), —

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “30th November, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

Explanation:—For the purpose of this section, “earliest arrear” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”.

7. *Amendment of Act 30 of 2004.*—In the Kerala Value Added Tax Act, 2003 (30 of 2004), in the SCHEDULES, in the third Schedule, after serial number 98A and the entries against it in columns (2) and (3), the following serial numbers and entries shall, respectively, be inserted, namely:—

“98B	Liquified Natural gas	2711.11.00
98C	Natural gas in gaseous state	2711. 21. 00 ”.

8. *Amendment of Act 20 of 2017.*—In the Kerala State Goods And Services Tax Act, 2017 (20 of 2017),—

(1) in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:—

“(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation:—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions *inter se* shall be deemed to take place from one such person to another;”;

(2) in section 16, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

“(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”;

(3) in section 35, sub-section (5) shall be omitted;

(4) for section 44, the following section shall be substituted, namely:—

“44. *Annual return.*—Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed :

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor - General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force;”.

(5) in section 50, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is

furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”.

(6) in section 74, in Explanation 1, in clause (ii), for the words and figures “sections 122, 125, 129 and 130”, the words and figures “sections 122 and 125” shall be substituted;

(7) in section 75, in sub-section (12), the following Explanation shall be inserted, namely:—

Explanation:—For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.

(8) In section 83, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.”;

(9) in section 107, in sub-section (6), the following proviso shall be inserted, namely:—

“Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent of the penalty has been paid by the appellant.”;

(10) in section 129,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) on payment of penalty equal to two hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent, of the value of the goods or two hundred per cent of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

(ii) sub-section (2) shall be omitted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of sub-section (1).”;

(iv) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted;

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”.

(11) in section 130,—

(a) in sub-section (1), for the words “Notwithstanding anything contained in this Act, if ”, the word “Where” shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred per cent of the tax payable on such goods” shall be substituted;

(c) sub-section (3) shall be omitted.

(12) for section 151, the following section shall be substituted, namely:—

“151. Power to call for information.—The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.”.

(13) in section 152,—

(a) in sub-section (1),—

(i) the words “of any individual return or part thereof” shall be omitted;

(ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted;

(14) in Schedule II, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

9. *Amendment of Act 5 of 2019.*—In the Kerala Finance Act, 2019 (5 of 2019), in section 12,—

(1) in sub-section (1),—

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted;

(2) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “30th November, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted.

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted.

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount has been paid in part under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

Explanation:—For the purpose of this section, “earliest arrears” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”.

10. *Amendment of Act 7 of 2020.*—In the Kerala Finance Act, 2020 (7 of 2020), in section 10,—

(1) in sub-section (1),—

(a) in clause (i), for the words “fifty per cent”, the words “seventy per cent” shall be substituted;

(b) in clause (ii), for the words “forty per cent”, the words “sixty per cent” shall be substituted.

(2) in sub-section (4) for the words “an assessee” the words “a year” shall be substituted;

(3) in sub-section (5),—

(a) for the words and figures “30th November, 2020”, occurring at both the places, the words and figures “30th November, 2021”, shall be substituted;

(b) for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(4) in sub-section (7), for the words and figures “31st March, 2021”, the words and figures “31st March, 2022” shall be substituted;

(5) after sub-section (12), the following sub-section shall be inserted, namely:—

“(12A) Where any amount have been partially paid under this section during the year 2020-21, the amount so paid shall be appropriated towards the earliest arrear, and the balance amount, if any, shall be appropriated towards the

arrears of subsequent years. In the case where such amount is to be given credit towards the arrears opted to be settled under this section, the amount shall be given credit as tax before reckoning the arrears to be settled under sub-section (6).

Explanation:—For the purpose of this section, “earliest arrears” means the outstanding dues related to the oldest year among the arrears pending against the assessee.”.

11. *Validation.*—(1) Notwithstanding the lapse of the Kerala Finance Bill, 2021 (Bill No. 280 of the Fourteenth Kerala Legislative Assembly) (hereinafter referred to as the said Bill) and the cesser of force of law of the declared provisions of the said Bill, anything done or any action taken, including levy and collection of tax or duty, during the period from the 1st day of April, 2021 to the 9th day of June, 2021, by virtue of the declared provisions contained in the said Bill, under the Kerala Surcharge on Taxes Act, 1957 (11 of 1957) or under the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) or under the Kerala General Sales Tax Act, 1963 (15 of 1963) or under the Kerala Building Tax Act, 1975 (7 of 1975) or under the Kerala Agricultural Income Tax Act, 1991 (15 of 1991) or under the Kerala Value Added Tax Act, 2003 (30 of 2004) or under the Kerala Finance Act, 2019 (5 of 2019) or under the Kerala Finance Act, 2020 (7 of 2020) (hereinafter referred to as the 'respective Acts'), as they stand amended by the said Bill, shall be deemed to be and to have always been, for all purposes, validly and effectively done or taken under the provisions of the respective Acts, as if the said amendments had been in force at all material times.

(2) Notwithstanding anything contained in the respective Acts during the period from 1st day of April, 2021 to the 9th day of June, 2021 during which the declared provisions contained in the said Bill was in force, anything done or any action taken by virtue of said provisions of the said Bill, shall be deemed to have been validly done or taken under the respective Acts and no action shall lie against any dealer or authority on the ground of short levy or refund of excess tax or duty and tax or duty collected, if any, by a dealer or an authority, as the case may be, shall be paid over to the Government.